

Remarks

Claims 1-23 are pending in this application. Claims 11-23 stand withdrawn from consideration. Claims 1-10 stand rejected.

Regarding the drawings, the Examiner has objected to the drawings. Applicants have enclosed a proposed drawing correction that includes a new informal drawing sheet illustrating a proposed new Figure 10. If the Examiner approves, applicant will prepare and submit a new formal drawing sheet for Figure 10, and will amend the specification to reference the new Figure 10.

Regarding the rejection of claims 1-8 and 10 under 35 U.S.C. § 101, applicants have amended claims 1-10 and believe that the claims are directed to statutory subject matter. Specifically, the claims now recite a programmed device accepting input data and executing instructions for automating inventory management with the program device comprising instructions for performing recited functions.

Regarding the rejection of claims 1-10 under 35 U.S.C. § 112, first paragraph, applicants believe that the specification is enabling. Specifically, the Examiner states that the specification fails to disclose in an adequately enabling manner how a trend could possibly be established and fails to disclose in an adequately enabling manner how the consumed items will be recognized. Although the Examiner has stated what information is missing from the specification, applicants maintain that the Examiner has failed to support a *prima facie* case of lack of enablement. The Examiner must specifically identify what information is missing and why one skilled in the art could not supply the information without undue experimentation. Specifically, this burden is on the Examiner under the enablement requirement. M.P.E.P. 2164.04. Factors to be considered when determining whether there is sufficient evidence to support a determination that a disclosure does not satisfy the enablement requirement are discussed in M.P.E.P. 2164.01(a). The Examiner has failed to discuss any of these factors, and as such, has failed to support a *prima facie* case of lack of enablement. Applicants maintain that the specification is enabling, and if any information is missing from

the specification, one skilled in the art could indeed supply any missing information without undue experimentation.

Nevertheless, in order to further prosecution in this case, applicants have amended claim 1 to recite receiving a series of shopping lists and basing the shopping lists trend on the series of shopping lists.

Regarding the claim rejections under 35 U.S.C. § 112, second paragraph, applicants believe that the originally filed claims are definite and point out that the term "smart" was used to specify the list generated with the control logic as opposed to the various other lists recited in various claims similar to the way that terms like "first" and "second" are used in claims distinguished among various elements. Nevertheless, applicants have amended the claims to recite "output list" as opposed to "smart list" and believe that this term is clearly definite in that the "output list" is generated by the programmed device. Regarding the Examiner's statement about claim 10, applicants have amended claim 10 as suggested by the Examiner.

The Examiner also rejected claims 1-10 under 35 U.S.C. § 102(b) as being anticipated by Green, and under 35 U.S.C. § 102(e) as being anticipated by each of Kenney and Petrovich. Applicants disagree and believe that claims 1-10 are not anticipated by the prior art, and further, are not obvious over the prior art relied upon by the Examiner.

Independent claim 1 recites a programmed device for automating the management of an inventory of consumer items at a consumer location. The programmed device accepts input data and executes instructions for automating inventory management. The programmed device comprises instructions for receiving a series of shopping lists. Each shopping list includes at least one item. The programmed device further comprises instructions for establishing a shopping list trend based on the series of shopping lists, and instructions for generating an output list. The output list is generated in accordance with the shopping list trend such that the output list is predictive of a next shopping list.

In contrast, Green describes a remote ordering system. Green does not describe or suggest instructions for establishing a shopping list trend and generating an output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1. Green only discusses custom reference lists (col. 3, ll. 51-58). The custom reference lists discussed in Green appear to be fixed customizable lists that are not generated in accordance with an established shopping list trend as recited by independent claim 1.

Kenney describes an interactive electronic shopping system and method. Kenney does describe a virtual shopping facility. However, Kenney does not describe or suggest the programmed device defined by claim 1. Petrovich describes a personal shopping system portable terminal. However, Petrovich does not describe or suggest the programmed device defined by claim 1.

Specifically, the Examiner, for Green, Kenney, and Petrovich, has failed to specifically point out in any one of these references, each recited structure and structure for performing each recited function as defined for the programmed device of claim 1.

Applicants maintain that these references fail to describe or suggest the claimed invention. Green is a remote ordering system, Kenney is an interactive shopping system, and Petrovich is a personal shopping system portable terminal, but none of these describe or suggest the claimed invention.

Claims 2-10 are dependent claims and are believed to be patentable for their dependency. In addition, the Examiner has failed to specifically point out any teaching of the recited limitations in these dependent claims. Applicants respectfully request that the Examiner

withdraw all rejections, accept the proposed drawing correction, and issue a notice of allowability in this case.

Respectfully submitted,
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Attachment



VERSION 1.0 PERS MARKINGS TO SHOW CHANGES MADE

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Please replace claims 1-10 as shown below.

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1. (Amended) A [method] programmed device for automating the management of an inventory of consumer items at a consumer location [using a], the programmed device [that accepts] accepting input data and [executes control logic] executing instructions for automating inventory management, the [method] programmed device comprising:

instructions for receiving [at least one] a series of shopping lists, each shopping list including at least one item;

instructions for establishing a shopping list trend based on the [at least one shopping list] series of shopping lists; and

instructions for generating [a smart] an output list [with the control logic,] in accordance with the shopping list trend[,] such that the [smart] output list is predictive of a next shopping list.

2. (Amended) The [method] programmed device of claim 1 wherein the instructions for receiving the at least one shopping list further [comprises] comprise:

instructions for determining a shopping list of a shopping trip;

instructions for storing information indicative of the shopping list on a data storage medium; and

instructions for, thereafter, retrieving the information from the data storage medium.

3. (Amended) The [method] programmed device of claim 1 wherein the instructions for receiving the at least one shopping list further [comprises] comprise:

instructions for determining a shopping list of a shopping trip;

instructions for sending information indicative of the shopping list over a network; and

instructions for receiving the information from the network.

4. (Amended) The [method] programmed device of claim 1 further comprising: instructions for receiving at least one consumed item list including at least one item that has been consumed, wherein the shopping list trend is further based on the at least one consumed item list.

5. (Amended) The [method] programmed device of claim 4 wherein the instructions for receiving the at least one consumed item list further [comprises] comprise:

instructions for identifying an item upon consumption thereof, the item having a tag and the item being identified by recognizing the tag.

6. (Amended) The [method] programmed device of claim 5 wherein the tag is a bar code and the tag is recognized by scanning the bar code.

7. (Amended) The [method] programmed device of claim 4 wherein the instructions for receiving the at least one consumed item list further [comprises] comprise:
instructions for identifying an item upon consumption thereof by recognizing the item with a camera.

8. (Amended) The [method] programmed device of claim 1 further comprising:
instructions for comparing the [smart] output list with the next shopping list; and
instructions for modifying the shopping list trend based on the comparison.

9. (Amended) The [method] programmed device of claim 1 wherein the instructions for generating the [smart] output list further [comprises] comprise:
instructions for receiving a plurality of item price lists from a corresponding plurality of shopping locations; and
instructions for recommending a shopping location based on the plurality of item price lists and the [smart] output list.

10. (Amended) The [method] programmed device of claim 1 wherein the instructions for generating the [shopping] output list further [comprises] comprise:
instructions for receiving an item list for a recipe; and
instructions for generating the smart list further based on the item list for the recipe.